

REMARKS

Claims 1-49 are pending in the present application. Claims 7-19 21-32, 34-48 have been withdrawn from consideration as being directed to non-elected subject matter, and the Action has objected to claims 1-6, 20 and 33. Claims 1,2,5,6,20, and 33 stand rejected.

I. Election/Restriction

With respect to claims 1-6, 20 and 33, the present Action has made final the Restriction Requirement of October 25, 2005, alleging that the elected invention for search and examination is limited to the single species within claim 1 were, in relevant part Ar is 7H-pyrrolo-[2,3-d]-pyrimidine. In addition, the Action requires Applicants to withdraw the non-elected species by stating that, "[c]laims 1-6,20, and 33 presented drawn solely to the elected invention identified ... wherein Ar is 7H-pyrrolo-[2,3-d]-pyrimidine would overcome this objection." (Emphasis added).

In response, Applicants file herewith a Petition for the review of the aforementioned restriction requirement. Specifically, the petition requests (1) withdrawal thereof, to the extent the Action improperly objects to the non-elected species, and (2) withdrawal of the finality of the Action, to allow proper Examination of the elected group of claims and accompanying species.

II. Double Patenting Rejection

The Action provisionally rejected claims 1,2,5,6,20, and 33, on the grounds of the Judicially created doctrine of non-statutory obviousness double patenting as being unpatentable over claims 1,2,6,7, 21 and 34 of co-pending Application No. 10/749630 to Kleeman et al. The Action alleges that although the conflicting claims are not identical, they are not patentably distinct from each other.

Pursuant to 37 CFR 1.321, Applicants hereby include a Terminal Disclaimer along with the requisite fee under 37 CFR § 1.20(d) in view of co-pending Application No. 10/749630 to Kleeman et al. Accordingly, Applicants request withdrawal of the Action's provisional obviousness-type double patenting rejection of the pending claims.

Conclusion

Applicants respectfully submit that, notwithstanding the maintenance of the above-petitioned restriction requirement, in the absence of any prior art to compromise the elected claims, Applicants' submission of the above-referenced terminal disclaimer places the present Application in condition for allowance. Accordingly, an indication of allowable subject matter is hereby requested.

The Commissioner is hereby authorized to charge the fee required and any additional fees that may be needed to Deposit Account No. **18-1982** in the name of Aventis Pharmaceuticals Inc.

Respectfully submitted,



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Robert J. Kajubi, Reg. No.: 55,312
Attorney for Applicants

sanofi-aventis U.S. LLC
Patent Department
Route #202-206 / P.O. Box 6800
Bridgewater, NJ 08807-0800
Telephone (908) 231-3410
Telefax (908) 231-2626

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